



[4830-01-p]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Requesting Comments on TD 8400, Taxation of Gain or Loss from Certain Nonfunctional Currency Transactions (Section 988 Transactions)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Treasury Decision (TD) 8400, Taxation of Gain or Loss from Certain Nonfunctional Currency Transactions (Section 988 Transactions).

DATES: Written comments should be received on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to omb.unit@irs.gov. Include OMB Control No. 1545-1131 in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to Jon Callahan, (737) 800-7639, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at jon.r.callahan@irs.gov.

SUPPLEMENTARY INFORMATION: The IRS is currently seeking comments concerning the following information collection tools, reporting, and record-keeping requirements:

Title: TD 8400 – Taxation of Gain or Loss from Certain Nonfunctional Currency Transactions (Section 988 Transactions).

OMB Number: 1545-1131.

Regulation Project Number: TD 8400.

Abstract: This document contains previously approved final regulations regarding the taxation of gain or loss from certain foreign currency transactions under Internal Revenue Code (IRC) section 988 and applies to taxpayers engaging in such transactions. Such gains and losses are characterized as ordinary income or loss. However, under IRC section 988(a)(1)(B), taxpayers may elect to characterize exchange gain or loss on certain transactions as capital gain or loss. Treasury Regulations section 1.988-3(b) provides the procedure for making the election. Under IRC section 988(c)(1)(D)(ii), taxpayers may elect to have regulated futures contracts and certain options (which generally are not subject to section 988) treated as section 988 transactions. Treasury Regulations sections 1.988-1(a)(7)(iii) and (iv) provide the procedure for making that election. Under IRC section 988(c)(1)(E)(iii), a qualified fund may elect out of section 988 with respect to certain financial transactions. Treasury Regulations section 1.988-1(a)(8)(iv) provides the procedure for making that election. Under IRC section 988(d), taxpayers may receive special treatment allowing integration with respect to certain borrowings and property if the transactions are properly identified. The identification rules are in Treasury Regulations sections 1.988-5(a)(8), 1.988-5(b)(3), and 1.988-5(c)(2). Treasury Regulations section 1.988-2(a)(2)(v) allows an accrual basis taxpayer to make an election that provides special translation rules regarding the purchase and sale of stock or securities traded on an established securities market. Treasury Regulations section 1.988-2(b)(2)(iii)(B) provides an election allowing the translation of interest income and expense using a spot accrual convention.

Current Actions: There is no change to the existing collection.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, not-for-profit institutions, and individuals and households.

Estimated Number of Responses: 5,000.

Estimated Time Per Respondent: 40 minutes.

Estimated Total Annual Burden Hours: 3,333.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 12, 2022.

Jon R. Callahan,
Tax Analyst.